

United States Department of State

Washington, D.C. 20520

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MEMORANDUM FOR ROBERT C. MCFARLANE
THE WHITE HOUSE

SUBJECT: ABM Terms and Definitions Papers

At last Friday's SACG you asked for comments from all principals on subject papers. The following incorporates the views of Ambassadors Rozanne L. Ridgway and H. Allen Holmes.

They are in agreement with Paul Nitze's view that the OSD legal analysis of Agreed Statement D is misleading and that there are not as many gray areas in the ABM Treaty as the OSD paper suggests. They recognize that there may be room for conflicting legal interpretation. At the same time, they note that an abrupt change in the US interpretation of the treaty, from that which we have defended publicly as recently as the President's report to Congress earlier this year, would likely provoke serious questioning of our intentions in Congress and elsewhere, with potential negative effects for the SDI program and the credibility of our arms control and strategic programs. Coming in the midst of public debate with the Soviets over what the Treaty permits, a reinterpretation would be viewed as a cynical effort to change the rules mid-game. As a statement of US interpretation of the ABM Treaty, they therefore favor the Nitze draft. They do not believe it can successfully be married with the OSD draft, given the differences of approach.

Present Administration Position

The President's SDI report to Congress in March of this year made clear the Administration position that Article V prohibitions on development, testing and deployment include all ABM systems and components whether of the 1972 type or based on other physical principles. This is, indeed, the position which the US has maintained consistently since the negotiation of the treaty itself. To act now retroactively to enlarge the scope of permissible development of space-based or other non-fixed land-based components would be viewed on the Hill, and by allies and the public, as self-serving and legalistic. It would appear akin to the accusations we made of Soviet flaunting of the

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Treaty. Our case on Soviet non-compliance and our demand to reverse the erosion of the ABM Treaty would be gravely weakened by such an interpretation.

Congressional support for SDI thus far has been predicated on the President's commitment that the research will be conducted within the constraints of the Treaty. A controversial reinterpretation at this late date could cause many to question the good faith of that commitment. Although few in the public would grasp the terminology debate, public opinion polls show a large majority feel strongly that the US should live up to Treaty obligations. Arms Control advocacy groups, and of course the Soviets, would be given another weapon in their campaign to distort Administration intentions and build pressure against SDI. An increase in controversy could make it difficult to sustain desired growth in the program in Congress, where we have heretofore been relatively successful.

Effects on Allied Support

Whether or not the OSD interpretation of the ABM Treaty is legally acceptable, it has the clear potential for exacerbating political controversy over SDI within the Alliance and undercutting Allied political support for SDI and our approach to arms negotiations in Geneva.

The Allies have repeatedly made clear the importance they attach to the continued viability of the ABM Treaty. This is less a legal than a political issue for them, central to their ability to retain popular support for the US approach. In partial response to such concerns, we have stressed in our discussions with them our intent to adhere to the Treaty throughout our pursuit of the SDI research program. We have also emphasized that reversing the erosion of the Treaty is one of our first priorities in the Geneva negotiations.

As the OSD paper notes, the US position has consistently been that Article V places a complete ban on the testing, development and deployment of ABM systems with components that are mobile land-based, sea-based, air-based, or space-based. This prohibition covers systems and components which are based on new physical principles as well as those based on principles current at the time the ABM Treaty was negotiated. Accordingly, any reinterpretation of the ABM Treaty along the lines suggested by OSD will be viewed by our allies as a serious weakening of our commitment to abide by the ABM Treaty. Whatever the detailed

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legal rationale presented, the Allies will see this as motivated by an American perception that the SDI program cannot be conducted consistent with the ABM Treaty as currently interpreted:

- Re-opening the entire question of whether SDI can be treaty-compliant could have particularly unfortunate effects on those key allies now deciding whether and to what extent they will participate in the research program.
- It would increase Allied fears that SDI will undermine the basis of strategic arms control by providing evidence of our intent to test and develop space-based systems without waiting for the results of research, and by spurring an increase in Soviet offensive nuclear deployments.
- The OSD revision would undercut efforts to educate European public opinion on Soviet violations of the ABM Treaty against the background of our own determination to conduct SDI within its limitations.

Nicholas Platt
Executive Secretary

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